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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/202,070 12/08/98 WADAKA

S 2565-136P

002292 MM91/0703
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EXAMINER

ELDD, M

ART UNIT

PAPER NUMBER

2834

DATE MAILED:

07/03/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 202070	Applicant(s) Wadaka et al
Examiner M. Boud	Group Art Unit 2834

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 6-12-01
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-15 and 25-40 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-15 and 25-40 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))
- *Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

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Claims 26-39 are rejected under 35 U.S.C. 112 for the specific reasons set forth in paper no 17 (4-16-01). Regarding applicants comments it is noted that the specification does not mention pieces or sections in regard to applicants fig. 1. Further, substrate # 11 is not shown as cut into different (separate) pieces. If it were cut into separate pieces as part of the manufacturing process, then the claims would be mis descriptive in that the finished product cannot be defined by a possible position during its manufacture.

Claims 1-15 are rejected under 35 U.S.C. 102 as anticipated by Vale, Krishnaswamy, Carson or Curran asset forth in paper no 17 (4-16-01). Applicants and Examiner simply disagree on what constitutes a structural limitation. It would be reasonable to assume that the electrode shapes and placement of the prior art references was predetermined and not just randomly manufactured. As such, they are dependent on their production. Applicants feel that because the claim language "clearly suggests (emphasis added) another structural element" that this some how specifically, concretely structurally can define from the prior art. The examiner cannot agree.

Claim 40 is rejected under 35 U.S.C. 102 as anticipated by Berlincourt.

Claims 25-39 (as understood) are rejected under 35 U.S.C. 103 as unpatentable over Carson, Krishnaswamy or Vale in view of ^{Berlincourt}Curran for the specific reasons noted in paper no. 17. Is applicant alleging that electrode surface or overlap area isn't a known factor in determining the frequency of a piezoelectric resonator? Berlincourt clearly teaches variations in electrodes including thickness and density affect the resonance of the devices. Also, changing electrode area would adjust the impedance of the device in a known, predictable, manner.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Budd/nt

6/29/01

MARKO. BUDD
PRIMARY EXAMINER
ART UNIT 212